IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

OP.No. 36950 of 2002(W)

PETITIONER:

K.HAMZA, SON OF MUHAMMED @
KUNHAPPA HAJI, KARKUZHIYAN HOUSE,
THUVUR P.O., NILAMBUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
LABOUR & REHABILITATION (S) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS' WELFARE
FUND BOARD, MALAPPURAM.

3. SHRI.A.SAIDALAVI, S/O.KUNJUMOYI HAJI,
ARANJICKAL HOUSE, PATHAPIRIYAM P.O.,
MALAPPURAM DISTRICT, PIN 676 125.

4. SHRI.MOHAMMED SALEEM, S/O.KUTTY HAJI,
ALLURAN HOUSE, THUVUR P.O.,
MALAPPURAM DISTRICT. 679 377.

BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 36950/2002

ORDER ON CMP NO.62380/2002 IN O.P. NO. 36950/2002

DISMISSED.

06/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	COPY OF PROVISIONAL DETERMINATION ORDER NO.EM-103/B1/98-99 DATED 18/04/2001 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER WITH ANNEXURES.
EXT.P2	COPY OF PROVISIONAL DETERMINATION ORDER NO.EM-103/B1/2000-2001 DATED –DO—DO--
EXT.P3	COPY OF OBJECTION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT ON 01/05/2001.
EXT.P4	COPY OF FINAL DETERMINATION ORDER VIDE NO.EM/103/B1/99-2001 DATED 18/07/2001 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
EXT.P5	COPY OF APPEAL SUBMITTED BY THE PETIITONER BEFORE THE 1ST RESPONDENT ON 25/08/2001.
EXT.P6	COPY OF AFFIDAVIT SWORN BY THE 3RD RESPONDENT ON 25/08/2001.
EXT.P7	COPY OF AFFIDAVIT SWORN BY THE 4TH RESPONDENT ON 25/08/2001.
EXT.P8	COPY OF ORDER GO(Rt.) NO. 3097/2002/LBR DATED 07/10/2002 OF THE 1ST RESPONDENT ISSUED TO THE PETIITONER.
EXT.P9	COPY OF ENVELOPE IN WHICH EXT.P8 ORDER WAS RECEIVED BY THE PETITIONER ON 25/11/2002.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 36950 of 2002 W

Dated, this the 6th day of February, 2007

J U D G M E N T

Even though petitioner is challenging demand and recovery of Motor Transport Workers Welfare Fund contribution on the ground that so-called employees are close relatives and partners, learned Standing Counsel referred to petitioner's own deposition, wherein, it is stated that he is treating respondents 3 and 4 as employees. Petitioner's case is that he was driving the vehicle along with an alternate driver engaged and it appears to be accepted because demand for the stage carriage is only for two workers. Normally stage carriage can be operated only with four workers. More over respondents 3 & 4, are registered workers. In the circumstances, I do not find any justification for interference with the demand and this O.P is accordingly dismissed.

2. However, petitioner granted three equal monthly installments to clear the arrears, first of which will be paid on or

before 10th of next month and balance on or before 10th date of April and May 2007. No collection charges will be recovered from the petitioner if payments are made voluntarily. Whatever payment already made should be credited and only balance should be recovered from the petitioner.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg